

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:13 cr 02-3**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
KANDACE RHEAN GRIFFIN,)	
)	
Defendant.)	
_____)	

THIS MATTER has come before the undersigned pursuant to a Motion to Continue Rule 11 Hearing (#75) filed by counsel for Defendant. An examination of the motion shows that counsel for Defendant has failed to comply with LCrR 73.1(B) which reads as follows:

(B) Certificate of Conference With Filing. Pretrial motions, other than motions to suppress, *ex parte* motions, and notices (notice of substitution of counsel, notice of appearance, notice of intent to present certain types of evidence, etc.) shall include a certification that the moving party has conferred with opposing counsel and state opposing counsel's position on the relief sought, or an explanation as to why conferring should not be required under the circumstances. If a hearing on a motion is requested, counsel should estimate the length of such hearing.

The motion was filed on the morning of the day when the Rule 11 hearing was scheduled. Indeed, the hearing was scheduled for 9:30 a.m. which made it the first case on the calendar for hearing. The motion does not contain any of the

information required by the local rule.

Appearing for the Government was Assistant United States Attorney John Pritchard. Mr. Pritchard advised the Court that the Government was not taking a position in regard to the motion of Defendant. In the motion, and in statements made for counsel for Defendant, counsel for Defendant advised the Court it was his opinion that he had possibly incorrectly advised Defendant regarding the correct United States Sentencing Guideline Range which would be applicable to the Defendant. Counsel for Defendant further advised that the Plea Agreement had been altered after it had been signed by Defendant in regard to the maximum possible penalties faced by Defendant. The Court has noted that the Plea Agreement was signed by Defendant on August 13, 2013 and was signed by her counsel on August 19, 2013 and signed by Mr. Pritchard on September 11, 2013 and was not filed until September 13, 2013.

To protect the rights of this Defendant the undersigned finds it is necessary to allow the motion(#75) despite the failure of counsel to follow the local rules.

ORDER

IT IS, THEREFORE, ORDERED that the Motion to Continue Rule 11 Hearing (#75) is hereby **ALLOWED** and the plea hearing in this matter is ordered to be rescheduled for **September 24, 2013 at 9:30 a.m.**

Signed: September 19, 2013

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

